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March 9 1978

Mr. Roberto C. Montiel
Chief Deputy
Office of the Santa Cruz County Attorney
513 Morley Avenue
Nogales, Arizona 85621

Re: 78-46 (R77-414)

Dear Mr. Montiel:

We concur with your November 30, 1977 opinion addressed to the Santa Cruz School District #28 concluding that a school district may admit children from another district pursuant to A.R.S. § 15-302(B) without the consent of the district of residence, and that state aid would go to the district of attendance. See Att'y. Gen. Op. No. 78-42 (R77-350) and 76-32 (R75-592).

Sincerely,

JOHN A. LASOTA, JR.
Acting Attorney General

DAVID RICH
Assistant Attorney General

DR:kd

November 30, 1977

SCHOOL OPINION

Requested by: Santa Cruz School District #28, S
Santa Cruz County, Arizona.

Opinion by: Roberto C. Montiel

Question: Under what circumstances can a district receive
students who are not residents of the district?

Answer: See body of opinion.

A school district may receive students who are not residents of the district under the following circumstances:

1. A school district may admit children who do not reside in the district, but who reside within the State upon such terms as the Board of Trustees subscribes. A.R.S. § 15-302(B).
2. The district may admit students by agreement between the districts, without payment of tuition, to exchange pupils for their convenience for reasons being sufficient by the governing board. A.R.S. § 15-449(A-1).
3. The Board of Trustees must except students who have certificates of educational convenience issued by the County School Superintendent, pursuant to A.R.S. § 15-304, which authorizes the school superintendent to grant a certificate if a pupil is excluded by distance or lack of adequate transportation facilities from attending a common or high school in a district or county of his residence or who resides in unorganized territory.

It is evident that A.R.S. § 15-302(B) and A.R.S. § 15-449 relate to the same subject matter, and therefore pursuant to the rules of statutory construction they should be read together and there should be an attempt to give effect to each one of the statutes. Wise v. First Nat'l Bank 49 Ariz. 146, 65 2d. 1154.

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Taking this rule of statutory construction into mind, it would seem simply that A.R.S. § 15-302(B) is strictly a discretionary statute allowing a school district to admit children from another district upon any terms it may deem appropriate. Considering A.R.S. § 15-449 with the same rule of statutory construction it would seem that 449 is a mandatory statute.

If a school district pursuant to A.R.S. § 15-302(B) decides that it will admit pupils from another district, it is my opinion that they do so legally and the district of residence of the child cannot object to such admission to the new school district. Again the same rule of statutory construction, that is, to give effect to both statutes which deal with the same material, A.R.S. § 15-449 (C) would dictate that the school membership of a pupil would be deemed for the purpose of determining daily membership and for apportionment of state aid to be membership in a district of actual attendance and therefore the state aid would go to the district where the child is actually attending school.

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